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8 UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
9

10 In Re

Case No. 09-12873

11 Edward Walera  
Lisa Walera

CHAPTER 11

12 Debtors.  
13 \_\_\_\_\_/

Date: October 23, 2009

Time: 10:00 a.m.

Ctrm: 99 South E Street, Santa Rosa

14 MOTION TO DETERMINE VALUE OF CLAIM  
15 SECURED BY LIEN ON PROPERTY AND FOR  
ORDER AVOIDING LIEN  
16 (Citibank NA - Second Deed of Trust)

17 The debtors hereby move pursuant to FRBP Rule 3012 and 11 USC § 506 for an order  
18 determining the extent of the value of the secured claim of Citibank NA or assignor (hereinafter  
19 “Citi”), and for an order pursuant to 11 USC § 1123 avoiding the lien held by Citi. The motion  
20 respectfully represents:

21 **Relief Requested**

22 A determination that the claim of Citi is disallowed as a  
secured claim, and for an order avoiding the Citi lien.

23 **The Motion**

24 1. The debtors are the owners of a single family dwelling, their residential property,  
25 described as 1735 Center Road, CA (APN 140-171-98). The debtors are informed and believe,  
26 based upon sales of comparable properties in their neighborhood, the fair market value of the  
27 property is \$800,000.

28 2. On or about September of 2005, for valuable consideration, the debtors made,

1 executed, and delivered a promissory note to Aurora Loan Services. As part of the same  
2 transaction the debtors executed a deed of trust that conveyed a beneficial interest in the Center  
3 Road property to Aurora Loan Services to secure payment of the note that was duly perfected  
4 with the recording of a deed of trust (the First Deed of Trust). The debtors are informed and  
5 believe that on the day the petition was filed the obligation to Aurora Loan Services had a  
6 principal balance of \$894,287.

7 3. On or about November of 2005 for valuable consideration the debtors made,  
8 executed, and delivered a promissory note to Citi. As part of the same transaction, the debtors  
9 executed a deed of trust that conveyed a beneficial interest in the Center Road property to Citi to  
10 secure payment of the note that was duly perfected on November 23, 2005, with the recording of  
11 a deed of trust, document number 2005-0089387 (the Second Deed of trust). The debtors are  
12 informed and believe that on the day the petition was filed the obligation to Citi had a principal  
13 balance of \$137,924.45.

14 4. There is a lack of equity in the Center Road property in that the balance due to  
15 Aurora Loan Services (the First Deed of Trust) exceeds the value of the Center Road property,  
16 and therefore the court should find the Citi claim (the Second Deed of Trust) to be unsecured and  
17 its lien avoidable upon completion of the debtors' Chapter 11 Plan.

18 WHEREFORE, the debtors pray the court disallow the claim of Citi. (the Second Deed of  
19 Trust) as a secured claim, and for an order avoiding the lien upon completion of their Chapter 11  
20 Plan and the entry of the Chapter 11 discharge.

21 Dated: September 22, 2009

/s/ Michael C. Fallon

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23 Michael C. Fallon  
24 Attorney for Debtors  
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